

### REMARKS

Applicants have reviewed the Application in light of the Final Office Action dated October 8, 2008 ("Office Action"). Claims 1-18 and 74-84 have been cancelled, while Claims 49-54, 60-62, 100-103 and 108-112 are pending and stand rejected. Applicants respectfully request reconsideration of the application in accordance with the following remarks.

#### Information Disclosure Statements

Applicants have previously requested consideration of references cited in Information Disclosure Statements and PTO Form 1449s filed on February 4, 2004, February 6, 2004, September 10, 2004, December 9, 2004, March 24, 2006, May 2, 2006, June 2, 2006, January 4, 2007, June 29, 2007, May 22, 2008, and August 21, 2008. There is no indication in this Office Action or the file that the references cited in these Information Disclosure Statements have been considered. Applicants respectfully request that the Examiner consider the references cited therein and provide the appropriate indication that the cited items have been considered.

#### Section 103 Rejections

Claims 1-18 (now cancelled), 49-54, 60-62, 74-84 (now cancelled), 100-103 and 108-112 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,044,469 to Boebert et al. ("*Boebert*") in view of U.S. Patent No. 6,226,618 to Downs et al. ("*Downs*") and further in view of U.S. Patent No. 4,740,890 to William ("*William*"). Applicants respectfully traverse the rejections, and submit that it has not been shown that the cited references of *Boebert*, *Downs*, and *William*, either alone or in combination, teach or suggest each and every element of the present claims. Thus, Applicants respectfully submit that the claims are patentable over the cited art.

Further, Applicants submit that the current Office Action fails to address the arguments and claim amendments set forth in Applicants' previously-submitted Amendment in Reply to Action of April 4, 2008 with regards to independent claims 49 and 60.<sup>1</sup> Specifically, the Office

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<sup>1</sup> No specific portions of any of the cited references have been identified as teaching or suggesting the limitations of independent claims 49 and 60.

Action fails to differentiate between the claim limitations of independent claims 49 and 60 and now-cancelled independent claim 1, stating instead that "Claims 49 [and] 60...are not patentably distinct from claim 1 and are rejected for at least the same reasons[.]" Office Action, p. 4. Applicants note that Claims 49 and 60 recite different claim elements than those recited in now-cancelled independent claim 1, and that the Office Action offers no reasoning or support for the continued rejections of those claims. For example, Claim 49 recites "detecting an attempt to transfer a data file between [a] user device and an external device," that the "data file is stored in an unwrapped form prior to the attempt to transfer the data file," and "applying a digital wrapper to the unwrapped data file in response to the detected attempt to transfer the data file." Claim 60 recites "identifying a media file stored on a user device for distribution to an external device, where the media file is stored in an unwrapped form prior to distribution" and "applying a digital wrapper to the media file before distribution occurs." Each of these example limitations are absent from now-cancelled independent claim 1. For at least the reasons provided below, as well as those described in the previous response, Applicants submit that the combination of *Boebert*, *Downs*, and *William* has not been shown to teach or suggest each and every element of independent claims 49 and 60.

Independent Claims 49 and 100<sup>2</sup>:

Applicants submit that it has at least not been shown that either *Boebert*, *Downs*, nor *William* teaches, suggests, or discloses each and every element of claim 49. For example, claim 49 recites "detecting an attempt to transfer a data file between the user device and an external device" where the data file is stored in an unwrapped form prior to the attempt to transfer the data file, and, in response to the detected transfer attempt, applying a digital wrapper to the data file.

Generally, Claim 49 is directed to the problem of preventing data files from being copied off of a user device to some external device where the data file is subject to unauthorized access, while still allowing the data file to remain freely accessible within a user device on which it resides for authorized use. Accordingly, when a transfer of a data file is attempted, the file is wrapped to prevent unauthorized access after the file is actually transferred. Thus, after the

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<sup>2</sup> Independent claim 100 contains certain aspects analogous to claim 49.

transfer. access to the file can be limited to authorized users and/or authorized devices by the applied digital wrapper.

It has at least not been shown that either *Boebert*, *Downs*, or *William* disclose or suggest storing a data file in an unwrapped form on a user device prior to an attempt to transfer the data file and applying a digital wrapper to the unwrapped data file in response to detecting an attempt to transfer the data file before allowing the attempted transfer. *Boebert*, for instance, is directed to a data communication system including a secure processing unit that communicates with a personal keying device and a crypto media controller attached to a user's computer. *Boebert*, Abstract. Communication between elements of the system creates keys, identifiers, and attributes used to identify and authenticate the user, assign user security access rights and privileges, and assign media and device attributes to a data access device according to a predefined security policy. *Id.* *Boebert*, however, seems to at least teach away from storing a data file in an unwrapped form on a user device prior to an attempt to transfer the data file, instead teaching that access to files within a unit of media is allowed only "at the last possible moment" using a "combination of an 'access vector' assigned to an individual and the 'device attributes' assigned to a particular Workstation." *Id.* at 3:20-24. In other words, *Boebert's* media is stored in encrypted form before, during, and after any transfer. Thus, *Boebert* has not been shown to teach or suggest that files are stored in an unwrapped form on a user device, where a digital wrapper is applied to the file in response to detecting an attempt to transfer the data file.

*Downs*, on the other hand, discloses a system and related tools for the secure delivery and rights management of digital assets. *Downs*, Abstract. However, *Downs* explicitly teaches away from the claim 49 elements of storing a data file in unwrapped form and in response to an attempt to transfer the data file, applying the digital wrapper. *Downs* instead teaches that the enforcement of content usage conditions is performed by the following steps:

"First, upon reception of the Content 113 copy...the End-User Device(s) 109 marks the Content 113 with a Copy/Play Code 523 representing the initial copy/play permission. Second, the Player Application 195 cryptographically scrambles the Content 113 before storing it in the End-User Device(s) 109. The Player Application 195 generates a scrambling key for each Content Item, and the key is encrypted and hidden in the End-User Device(s) 109. Then, every time the End-User Device(s) 109 accesses the Content 113 for copy or play, the End-User Device(s) 109 verifies the copy/play code before allowing the de-scrambling of the Content 113 and the execution of the play or copy."

*Downs*, 21:43-63 (emphasis added). In direct contrast to claim 49, *Downs* describes that content is encrypted and stored (in an encrypted form) on the user device immediately upon receiving the content, requiring the content to be decrypted and verified before any access for copy or play on the user device. Thus, the content is not “stored in an unwrapped form prior to the attempt to transfer the [content]” and wrapped “in response to a detected attempt to transfer the [content]” as recited by claim 49.

Further, *William* discloses an apparatus for preparing and using software during a trial period associated with the software. *William*, Abstract. *William*, like *Boebert* and *Downs*, appears to teach away from storing a data file in an unwrapped form on a user device prior to an attempt to transfer the data file and wrapping the file in response to a detected attempt to transfer the content, instead describing that whenever a new version of the trial software is created, that version is associated with a “usage count..., [a] lock condition as to whether [the software] is locked or unlocked...and the output code for the disk...” *Id.* at 3:39-43. As the trial software is run on a computer, the system of *William* determines whether the trial software is locked, and if it is not locked, whether the usage count, or predetermined number of available uses, is zero. *See id.* at 4:13-29. The usage count is decremented with each use of the trial software, until the usage count reaches zero, wherein the trial software is no longer executable without providing an unlock code associated with the particular version of the trial software received from a third party, such as the software manufacturer or distributor. *See id.* at 4:37-5:2. In other words, *William* teaches that the trial software is received by the associated user or system in a protected format (that defines and enforces the trial period), and not that trial software is “stored in an unwrapped form prior to the attempt to transfer the [content]” and wrapped “in response to a detected attempt to transfer the [content]” as recited by claim 49. Therefore, for at least these reasons, it has not been shown that the *Boebert-Downs-William* combination teaches or suggests each and every element of claim 49.

Accordingly, Applicants respectfully request reconsideration and allowance of claim 49 and all claims depending therefrom. Further, claim 100 includes certain aspects analogous to claim 49 and is allowable for at least the reasons discussed above. Therefore, Applicants further request reconsideration and allowance of claim 100 and all claims depending therefrom.

Independent Claims 60 and 108:

Claim 60 recites identifying a media file stored on a user device for distribution to an external device, where the media file is stored in an unwrapped form prior to distribution, and where a digital wrapper is then applied to the file before the distribution occurs. As discussed with regards to claim 49, the *Boebert-Downs-William* combination has not been shown to teach or suggest a media file that “is stored in an unwrapped form [on the user device] prior to distribution,” and where a “digital wrapper [is applied] to the media file before the distribution occurs.” For at least these reasons, Applicants respectfully request reconsideration and allowance of claim 60 and all claims depending therefrom. Further, claim 108 includes certain aspects analogous to claim 60 and is allowable for at least the reasons discussed above. Therefore, Applicants respectfully request reconsideration and allowance of claim 108 and all claims depending therefrom.

### CONCLUSION

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper. For the foregoing reasons, and for other reasons clearly apparent, Applicants respectfully request full allowance of all claims.

If the present application is not allowed and/or if one or more of the rejections is maintained, Applicants hereby request a telephone conference with the Examiner and further request that the Examiner contact the undersigned attorney to schedule the telephone conference.

Applicants believe no fees to be due, however, the Commissioner is hereby authorized to charge any fees or credit any overpayments to deposit account 06-1050.

Respectfully submitted,

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